

# EXHIBIT I

Page 2	Page 4
<p>1</p> <p>2</p> <p>3 November 18, 2024</p> <p>4 10:24 a.m.</p> <p>5</p> <p>6</p> <p>7 Videotaped Deposition of NICOLAS</p> <p>8 BERNARD BAUM, held at the offices of</p> <p>9 Lexitas Legal, 420 Lexington Avenue,</p> <p>10 New York, New York, before Kristin Koch, a</p> <p>11 Registered Professional Reporter, Registered</p> <p>12 Merit Reporter, Certified Realtime Reporter</p> <p>13 and Notary Public of the State of New York.</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 A P P E A R A N C E S: (Continued)</p> <p>2</p> <p>3</p> <p>4 GREENE ESPEL PLLP</p> <p>5 Attorneys for Sunrise Banks, N.A.</p> <p>6 222 South 9th Street</p> <p>7 Minneapolis, Minnesota 55402</p> <p>8 BY: GINA TONN, ESQ. (Via Zoom)</p> <p>9</p> <p>10</p> <p>11</p> <p>12 ALSO PRESENT:</p> <p>13</p> <p>14 JONATHAN POPHAM, Videographer</p> <p>15 KIMBERLY VILLALOBOS, Lexitas Zoom Monitor</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 3	Page 5
<p>1 A P P E A R A N C E S:</p> <p>2</p> <p>3</p> <p>4 JANOVE PLLC</p> <p>5 Attorneys for Plaintiffs</p> <p>6 500 Seventh Avenue</p> <p>7 New York, New York 10018</p> <p>8 BY: RAPHAEL JANOVE, ESQ.</p> <p>9 LIANA VITALE, ESQ. (Via Zoom)</p> <p>10 SAM SHARFSTEIN, Paralegal</p> <p>11</p> <p>12</p> <p>13 DTO LAW</p> <p>14 Attorneys for GiftRocket Defendants</p> <p>15 915 Wilshire Boulevard</p> <p>16 Los Angeles, California 90017</p> <p>17 BY: MEGAN O'NEILL, ESQ.</p> <p>18 - and -</p> <p>19 307 Fifth Avenue</p> <p>20 New York, New York 10016</p> <p>21 KEVIN WESTERMAN, ESQ.</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 THE VIDEOGRAPHER: We are now on the</p> <p>2 record. My name is Jonathan Popham. I am a</p> <p>3 videographer retained by Lexitas. This is a</p> <p>4 video deposition for the United States</p> <p>5 District Court in the Eastern District of</p> <p>6 New York.</p> <p>7 Today's date is November 18th, 2024,</p> <p>8 and the time is 10:24 a.m. This deposition</p> <p>9 is being held at Lexitas, 420 Lexington</p> <p>10 Avenue, New York, New York, in the matter of</p> <p>11 Gracie Baked LLC, WeCare RG, Incorporated,</p> <p>12 and Millercobb LLC versus GiftRocket,</p> <p>13 Incorporated, et al. The deponent is Nicolas</p> <p>14 Baum.</p> <p>15 Will counsel, please, introduce</p> <p>16 themselves for the record.</p> <p>17 MR. JANOVE: Good morning. Raphael</p> <p>18 Janove, Janove PLLC, for plaintiffs.</p> <p>19 MS. O'NEILL: Good morning. Megan</p> <p>20 O'Neill for the GiftRocket defendants.</p> <p>21 MR. JANOVE: Also with me -- go ahead,</p> <p>22 Liana.</p> <p>23 MS. TONN: Gina Tonn from Greene Espel</p> <p>24 PLLP for Sunrise Banks.</p> <p>25 MS. O'NEILL: Also with me is Kevin</p>

Page 190	Page 192
<p>1 A. Ben and Kapil together manage some HR</p> <p>2 functions, but no, Ben doesn't own -- specifically</p> <p>3 own HR.</p> <p>4 Q. Who supervises Ben Kubic?</p> <p>5 A. I do.</p> <p>6 Q. Okay. Let's turn to --</p> <p>7 MS. O'NEILL: We have been going a</p> <p>8 while.</p> <p>9 MR. JANOVE: We can take a break</p> <p>10 actually. Let's go off the record.</p> <p>11 THE VIDEOGRAPHER: We are going off</p> <p>12 record at 4:32 p.m. This marks the end of</p> <p>13 media 4.</p> <p>14 (Recess was taken from 4:32 to 4:43.)</p> <p>15 THE VIDEOGRAPHER: We are back on the</p> <p>16 record at 4:43 p.m. This marks the beginning</p> <p>17 of media 5.</p> <p>18 MR. JANOVE: Okay. Let's turn to</p> <p>19 what we will mark as Exhibit 71. This is</p> <p>20 GR 0050510.</p> <p>21 (Exhibit 71, GiftRocket Wind Down,</p> <p>22 Bates stamped GR 0050510, marked for</p> <p>23 identification.)</p> <p>24 (Document review.)</p> <p>25 THE WITNESS: Okay.</p>	<p>1 Q. How did you share this document with</p> <p>2 your team?</p> <p>3 A. It was a post in Slack that referenced</p> <p>4 this page so people could click through and see</p> <p>5 it.</p> <p>6 Q. And is there a Slack conversation</p> <p>7 regarding this post?</p> <p>8 A. There is one post that's very brief, it</p> <p>9 says: Hey, everyone, we are -- something to the</p> <p>10 effect of we have decided to wind down GiftRocket,</p> <p>11 more info here.</p> <p>12 Q. Are individuals responding to your post</p> <p>13 in Slack?</p> <p>14 A. No.</p> <p>15 Q. Are you going to have a meeting to</p> <p>16 discuss this with your employees?</p> <p>17 A. No.</p> <p>18 Q. Have you received questions from your</p> <p>19 employees regarding the GiftRocket wind-down?</p> <p>20 A. No. There hasn't been a response on</p> <p>21 Slack or within this document. Most everyone</p> <p>22 within the organization has limited familiarity</p> <p>23 with -- with the GiftRocket business.</p> <p>24 Q. What is the title of this document?</p> <p>25 A. GiftRocket Wind Down.</p>
Page 191	Page 193
<p>1 BY MR. JANOVE:</p> <p>2 Q. What is this document?</p> <p>3 A. It is a document that was shared with</p> <p>4 the team about winding down the GiftRocket</p> <p>5 business.</p> <p>6 Q. When was this document created?</p> <p>7 A. The file itself, as you can see on the</p> <p>8 document, was November 10th, but it was revised to</p> <p>9 its final state by November 14th and shared with</p> <p>10 the team on November 14th of this year.</p> <p>11 Q. Who did you -- you mentioned sharing</p> <p>12 this with the team. Who did you share it with?</p> <p>13 A. I shared it with everyone who is</p> <p>14 involved with Tremendous -- with the Tremendous</p> <p>15 business, with Tremendous Parent, Inc., which is</p> <p>16 the holding company, everyone who owns -- is</p> <p>17 currently engaged working on the Tremendous</p> <p>18 business.</p> <p>19 Q. Did you create this document?</p> <p>20 A. I did.</p> <p>21 Q. Did anyone help you -- anyone else help</p> <p>22 you write this document?</p> <p>23 A. I -- Kapil gave some -- some feedback</p> <p>24 about the content and I shared it with the -- with</p> <p>25 DTO as well.</p>	<p>1 Q. And what is the title of the first</p> <p>2 subheading?</p> <p>3 A. Farewell GiftRocket.</p> <p>4 Q. What does the first sentence below that</p> <p>5 say?</p> <p>6 A. "We've decided to shut down GiftRocket,</p> <p>7 the original business Kapil and Nick founded in</p> <p>8 2010."</p> <p>9 Q. When you write "we've decided," who is</p> <p>10 we?</p> <p>11 A. Me and Kapil.</p> <p>12 Q. When did you decide to shut down</p> <p>13 GiftRocket?</p> <p>14 MS. O'NEILL: Objection to form.</p> <p>15 A. A few weeks ago.</p> <p>16 Q. And why did you wait until November</p> <p>17 10th to create this document, if you had made the</p> <p>18 decision a few weeks prior?</p> <p>19 MS. O'NEILL: Objection to form.</p> <p>20 A. It was created, in my opinion, on a</p> <p>21 relatively short -- short time frame.</p> <p>22 Q. And why did you distribute it on</p> <p>23 November 14th?</p> <p>24 MS. O'NEILL: Objection to form. I</p> <p>25 would instruct you to not reveal any</p>

Page 210	Page 212
<p>1 business that's on the Google Places API, which is</p> <p>2 millions of businesses in the United States. Are</p> <p>3 you referring to every single business on the</p> <p>4 Google Places API?</p> <p>5 Q. Do you ask the businesses on the Google</p> <p>6 API whether they wanted to be listed on</p> <p>7 GiftRocket.com?</p> <p>8 A. The millions of businesses on Google</p> <p>9 Places API, no.</p> <p>10 Q. Before Google API, how did you get</p> <p>11 business information on the website?</p> <p>12 MS. O'NEILL: Objection to form.</p> <p>13 A. We used the Yelp API.</p> <p>14 Q. And the Yelp API allowed you to list</p> <p>15 millions of businesses on GiftRocket.com?</p> <p>16 MS. O'NEILL: Objection to form.</p> <p>17 A. What do you mean by allow to list</p> <p>18 businesses? There was an agreement between</p> <p>19 GiftRocket and Yelp to use their API and they had</p> <p>20 an understanding of the application, but I'm not</p> <p>21 sure what you mean by allow.</p> <p>22 Q. So you populated -- before Google</p> <p>23 Places, you populated SEO pages using Yelp's</p> <p>24 information; is that correct?</p> <p>25 A. That's correct.</p>	<p>1 0038212. Just take a moment.</p> <p>2 (Document review.)</p> <p>3 A. Okay.</p> <p>4 Q. What is this document?</p> <p>5 A. It's a communication between me, Kapil</p> <p>6 Kale and Ben Plesser.</p> <p>7 Q. And what's the date?</p> <p>8 A. May 15th, 2016.</p> <p>9 Q. Do you see Kapil posts a URL at</p> <p>10 1:37 p.m., giftrocket.com/gift-card/massage-by-</p> <p>11 melissa-paul-turlock, do you see that?</p> <p>12 A. I do.</p> <p>13 Q. Does that URL refer to an SEO page?</p> <p>14 MS. O'NEILL: Objection to form.</p> <p>15 A. It refers to a landing page where a</p> <p>16 customer could purchase -- could make a purchase.</p> <p>17 Every page on GiftRocket is -- is accessible, or</p> <p>18 most pages. Many pages are accessible via Google</p> <p>19 search, even the home page. By SEO page you mean</p> <p>20 the one where it's like a business landing page,</p> <p>21 then yes.</p> <p>22 Q. So if someone searched for Massage by</p> <p>23 Melissa maybe using the phrase "gift card," it's</p> <p>24 potential that there would be a Google search</p> <p>25 result with this link directing them to this page</p>
Page 211	Page 213
<p>1 Q. So did you -- before Google Places API</p> <p>2 when you were using Yelp, did you ask businesses</p> <p>3 for consent before you generated the SEO pages?</p> <p>4 MS. O'NEILL: Objection to form.</p> <p>5 A. No, we didn't ask businesses for</p> <p>6 consent.</p> <p>7 Q. Have you ever considered asking</p> <p>8 businesses for consent?</p> <p>9 A. It's infeasible that we would ask</p> <p>10 millions of businesses for consent, and just as</p> <p>11 Yelp, for example, does not ask every single</p> <p>12 business for consent to be listed, or Google</p> <p>13 Places. It's not practical.</p> <p>14 Q. Have businesses been angry that they</p> <p>15 were listed on GiftRocket.com without consent?</p> <p>16 MS. O'NEILL: Objection to form.</p> <p>17 A. We have received communications from</p> <p>18 businesses that have asked to be removed for some</p> <p>19 individual -- I don't know what qualifies</p> <p>20 specifically as angry, but there are businesses</p> <p>21 who preferred not to be listed on the website and</p> <p>22 our practice was to remove them promptly when they</p> <p>23 reached out.</p> <p>24 Q. Okay. Let's take a look at what's been</p> <p>25 previously marked as Exhibit 2. This is GR</p>	<p>1 on GiftRocket.com?</p> <p>2 A. It's possible.</p> <p>3 Q. We just don't know what the result</p> <p>4 might be?</p> <p>5 A. Correct.</p> <p>6 Q. Then Kapil says: "Let's just remove</p> <p>7 this business?" Do you see that?</p> <p>8 A. Yes.</p> <p>9 Q. So he is saying that someone -- that</p> <p>10 you should remove this landing page; correct?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Then do you see a little bit</p> <p>13 lower: "Yeah, taking down seems right. We might</p> <p>14 also want to have "@support" add that "We cannot</p> <p>15 find a request from that particular business, but</p> <p>16 we've gone ahead and turned off that page." And</p> <p>17 then Ben says: "That article from CNN is</p> <p>18 terrifying. I deleted that business."</p> <p>19 Do you recall what this article is</p> <p>20 referring to?</p> <p>21 A. No.</p> <p>22 Q. Okay. At the bottom do you see -- what</p> <p>23 do you write at 3:53 p.m.?</p> <p>24 A. "I don't like mentioning publicly that</p> <p>25 we remove businesses."</p>

Page 278

1 purchase. Now, for Google we don't know exactly  
2 how many are listed. I think there is some query  
3 that you can do in Google to get a sense of  
4 broadly how many pages are indexed for a specific  
5 website. That might give some rough  
6 approximation.

7 MS. O'NEILL: We are at the seven-hour  
8 mark by our records. I don't know if you  
9 show something different.

10 THE VIDEOGRAPHER: 7:01 I have.

11 MS. O'NEILL: Yes, that's a wrap.

12 (Continued on next page to include  
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Page 279

1 MR. JANOVE: All right.

2 MS. O'NEILL: And I'd like to have the  
3 opportunity to review transcript, the witness  
4 I mean.

5 THE VIDEOGRAPHER: Does anyone else  
6 have anything?

7 MS. TONN: No.

8 THE VIDEOGRAPHER: Are we all set to go  
9 off?

10 MS. O'NEILL: Yes.

11 THE VIDEOGRAPHER: This concludes  
12 today's testimony of Nicolas Baum. We are  
13 going off the record at 7:22 p.m. This also  
14 concludes media 7.  
15 (Time noted: 7:22 p.m.)  
16  
17  
18 -----  
19 NICOLAS BERNARD BAUM  
20  
21 Subscribed and sworn to before me  
22 this day of 2024.  
23 -----  
24  
25

Page 280

1 C E R T I F I C A T E  
2  
3 STATE OF NEW YORK )  
4 ) ss.:  
5 COUNTY OF NASSAU )  
6  
7 I, KRISTIN KOCH, a Notary Public  
8 within and for the State of New York, do  
9 hereby certify:  
10 That NICOLAS BERNARD BAUM, the  
11 witness whose deposition is hereinbefore  
12 set forth, was duly sworn by me and that  
13 such deposition is a true record of the  
14 testimony given by such witness.  
15 I further certify that I am not  
16 related to any of the parties to this  
17 action by blood or marriage; and that I am  
18 in no way interested in the outcome of this  
19 matter.  
20 IN WITNESS WHEREOF, I have hereunto  
21 set my hand this 27th day of November,  
22 2024.  
23 *Kristin Koch*  
24 -----  
25 KRISTIN KOCH, RPR, RMR, CRR

Page 281

1 -----I N D E X-----  
2  
3 WITNESS EXAMINATION BY PAGE  
4 NICOLAS BERNARD BAUM MR. JANOVE 6  
5  
6 -----EXHIBITS-----  
7  
8 NUMBER PAGE LINE  
9 Exhibit 59  
E-mail dated April 25, 2016, Bates  
stamped GR 0008337 through GR 0008339..36 9  
10  
11 Exhibit 60  
E-mail dated December 15, 2016, Bates  
stamped GR 0004488.....51 24  
12  
13 Exhibit 61  
Slack message printout, Bates stamped  
GR 0049234 through GR 0049239.....62 16  
14  
15 Exhibit 62  
E-mail dated December 26, 2016, Bates  
stamped GR 0008387 through GR 0008390..70 21  
16  
17 Exhibit 63  
E-mail dated February 2, 2017, Bates  
stamped GR 0020064.....83 22  
18  
19 Exhibit 64  
Sunrise Banks Website Review Report  
Card, Bates stamped GR 0036354 and GR  
0036355.....98 12  
20  
21 Exhibit 65  
E-mail dated December 22, 2017, Bates  
stamped GR 0007725.....146 24  
22  
23 Exhibit 66  
E-mail dated December 27, 2017, Bates  
stamped GR 0007719 and GR 0007720.....148 23  
24  
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